

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

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<b>WISCONSIN ENERGY</b>	:	
<b>CORPORATION, INTEGRYS</b>	:	
<b>ENERGY GROUP, INC, PEOPLES</b>	:	
<b>ENERGY, LLC, THE PEOPLES GAS</b>	:	
<b>LIGHT AND COKE COMPANY,</b>	:	
<b>NORTH SHORE GAS COMPANY,</b>	:	
<b>ATC MANAGEMENT INC. and</b>	:	
<b>AMERICAN TRANSMISSION</b>	:	<b>Docket No. 14-0496</b>
<b>COMPANY LLC</b>	:	
<b>Application pursuant to Section 7-</b>	:	
<b>204 of the Public Utilities Act for</b>	:	
<b>authority to engage in a</b>	:	
<b>Reorganization, to enter into</b>	:	
<b>agreements with affiliated interests</b>	:	
<b>pursuant to Section 7-101, and under</b>	:	
<b>the Public Utilities Act to effectuate</b>	:	
<b>the Reorganization.</b>	:	

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**STAFF OF THE ILLINOIS COMMERCE COMMISSION RESPONSE TO  
THE MAY 28, 2015 EMERGENCY MOTION OF THE PEOPLE OF THE  
STATE OF ILLINOIS, THE CITY OF CHICAGO AND  
THE CITIZENS UTILITY BOARD**

The Staff of the Illinois Commerce Commission (“Staff”), by and through its undersigned attorneys, in accordance with 83 Illinois Administrative Code 200.190, respectfully responds to the People of the State of Illinois (“AG”), the City of Chicago (“City”), and the Citizens Utility Board (“CUB”) (collectively, “GCI”) May 28, 2015 Emergency Motion to Require Additional Testimony from the Joint Applicants Regarding Needed Transition Plans Related to the Peoples Gas Light & Coke Company’s

(“Peoples Gas”) Accelerated Main Replacement Program (“AMRP”) and to include the Liberty Consulting Group’s Final Report on Phase One of an Investigation of Peoples Gas Light and Coke Company’s AMRP (“Liberty Phase One Final Report”) in evidence (“May 28<sup>th</sup> Emergency Motion”). In support of its response, Staff states as follows:

1. On August 6, 2014, the Wisconsin Energy Corporation, Integrys Energy Group, Inc., Peoples Energy, LLC, The Peoples Gas Light and Coke Company, North Shore Gas Company, ATC Management Inc. and American Transmission Company LLC (collectively “Joint Applicants” or “JAs”) filed an application for authority to engage in a reorganization and to enter into agreements with affiliated interests, pursuant to Sections 7-101 and 7-204 of the Public Utilities Act (“Act”).
2. Pursuant to the Final Order in Docket Nos. 09-0166/09-0167 (Cons.), the Commission approved Peoples Gas’ request to initiate AMRP for its cast-iron and ductile-iron gas mains and service pipes and to upgrade its distribution system by the year 2030. (Order, Docket Nos. 09-0166/09-0167 (Cons.), January 21, 2010, 196.) The Commission’s Final Order in Docket No. 12-0511/12-0512 (Cons.) required the retention of an external auditor for the AMRP. Liberty Consulting Group (“Liberty”) was ultimately retained.
3. On May 14, 2015, the Administrative Law Judge’s (“ALJ”) proposed order (“ALJPO”) was issued following evidentiary hearings and briefing.
4. On or about May 20, 2015, the Commission released and posted to its website the Liberty Phase One Final Report.
5. The Liberty Phase One Final Report, was preceded by an Interim Liberty Audit Report.

6. The Interim Liberty Audit Report which was an attachment to the rebuttal testimony of Staff witness Harold Stoller (Staff Ex. 8.0, Attachment A (Confidential).), was admitted into evidence on February 19, 2015.

7. Staff's purpose in introducing the Interim Liberty Audit Report into evidence in this proceeding was to make clear to the JAs and the Commission the possible scope and scale of the obligations JAs would be undertaking in the event the merger is approved, and to afford the JAs the opportunity to assure themselves as well as the Commission that the JAs are ready, willing and able to implement the AMRP consistent with the directives in the Commission's Orders in Docket Nos. 09-0166/09-0167 (Cons.) and Docket Nos. 12-0511/12-0512 (Cons.) and with Liberty's findings in the Liberty Phase One Final Report, in light of these obligations.

8. With respect to the Interim Liberty Audit Report, Staff requested the ALJ, pursuant to Section 200.370 of the Commission's Rules of Practice, issue a ruling limiting the scope of the Liberty Interim Audit Report at any time during the docket, including discovery, testimony and examination of witnesses during evidentiary hearing to: (1) whether the Joint Applicants are aware of the scope and scale of the potential obligations under AMRP; and (2) whether Joint Applicants are ready, willing and able to implement the AMRP consistent with additional remedies as recommended by the Liberty audit.

9. On January 15, 2015, the ALJ issued a Ruling, as permitted by Sections 200.370 and 200.680 of the Rules of Practice, adopting Staff's suggested proposal and limiting the scope of the docket to: (1) whether the Joint Applicants are aware of the scope and scale of the potential obligations under AMRP; and (2) whether Joint Applicants are

ready, willing and able to implement the AMRP consistent with additional remedies as recommended by the Liberty audit. (January 15, 2015 ALJ Ruling, 1.)

10. GCI filed a Petition for Interlocutory Review of the January 15, 2015 ALJ Ruling, arguing that: (1) “the improper limits the Ruling places on the use of the Interim Report are unlawful and should be removed;” (2) “the Commission’s ability to condition the merger on the Joint Applicants commitment to sustain remediation efforts as outlined in the Interim Report” is limited; and (3) “the Commission should extend the schedule in this proceeding pursuant to Section 7-204(e) to develop a full record on the Interim Report and the Final Report, which will not be available until at least April 29, 2015.”

(GCI Petition, 1-2.)(emphasis added)

11. On March 11, 2015 the Commission denied GCI’s Petition for Interlocutory Review of the January 15, 2015 ALJ Ruling.

12. In its May 28<sup>th</sup> Emergency Motion, GCI argues that in light of certain “findings” in the Liberty Phase One Final Report, the Commission must make certain findings which depend on answers to three questions that are not present in the record. Those questions being:

- How will the JA ensure a seamless transition in the management of AMRP?
- What if any decisions are planned by WEC related to management organization and personnel changes?
- What plans (if any) are in place to ensure that documented remedial action begun to date will not be negatively impacted or slowed by WEC’s acquisition of Peoples Gas and its parent company Integrys?

(May 28<sup>th</sup> Emergency Motion, par. 4.)

13. GCI also wants the schedule extended so that the Commission can consider recommendations in the Liberty Phase One Final Report. (May 28<sup>th</sup> Emergency Motion, par. 8.)

14. By denying GCI's Petition for Interlocutory Review of the January 15, 2015 ALJ Ruling (Commission Voting Record for March 11, 2015), the Commission has already addressed the impact of Liberty's audit on this proceeding. The impact is limited to the following questions: (1) whether the Joint Applicants are aware of the scope and scale of the potential obligations under AMRP; and (2) whether Joint Applicants are ready, willing and able to implement the AMRP consistent with additional remedies as recommended by the Liberty audit. (January 15, 2015 ALJ Ruling, 1.)

15. The issues of: (1) whether the Joint Applicants are aware of the scope and scale of the potential obligations under AMRP; and (2) whether Joint Applicants are ready, willing and able to implement the AMRP consistent with additional remedies as recommended by the Liberty audit, have been addressed and are a part of the record in this proceeding (JAs Ex. 12.0) and no additional testimony on these issues is necessary.

16. Answers to the three additional questions that GCI proposes are not necessary for the Commission to rule upon JA's proposed merger.

17. The AMRP is an accomplished fact, and its effect on rates exists independent of the proposed merger transaction, and would, indeed, exist even if the transaction were never contemplated. Accordingly, a detailed review of the Liberty Phase One Final Report, such as is requested by GCI (May 28<sup>th</sup> Emergency Motion, par. 8.) is not required to determine the effect on rates.

18. The statutory factor to which the Liberty Phase One Final Report is relevant is whether “the utility will remain subject to all applicable laws, regulations, rules, decisions and policies governing the regulation of Illinois public utilities[.]” (220 ILCS 5/7-204(b)(5).) Put another way, the Liberty Phase One Final Report is specifically relevant to the question of whether the JAs, if the transaction is approved by the Commission, obey Commission orders currently in force and effect which require implementation of AMRP.

19. Conditions No. 9, 10 and 11 address the impact of the Liberty Phase One Final Report on the relevant statutory inquiry of Section 5/7-204(b)(5). (ALJPO, Appendix A.)

20. Specifically, these conditions provide as follows:

9. With respect to each recommendation contained in the final report of the investigation of Peoples Gas’ AMRP completed at the direction of the Commission in its June 18, 2013 Order in Docket No. 12-0512 under the authority granted in Section 8-102 of the Act (220 ILCS 5/8-102), Peoples Gas shall evaluate the recommendation and implement it if the recommendation is possible to implement, practical and reasonable from the standpoint of stakeholders and Peoples Gas customers, and cost-effective. Implementing a recommendation means taking action per a recommendation. If Peoples Gas determines that a recommendation is not possible, practical, and reasonable, including that the recommendation would not be cost-effective or would require imprudent expenditures, Peoples Gas shall provide an explanation of Peoples Gas’ determination with all necessary documentation and studies to demonstrate to the satisfaction of the Commission Staff that strict implementation of the recommendation is not possible, practical, or reasonable, along with an alternative plan to accomplish the goals of the recommendation as fully as is possible, practical, and reasonable. In the event that Peoples Gas and Commission Staff cannot reach agreement as to whether a recommendation should be implemented and/or how it should be implemented, Peoples Gas may file a petition to obtain the Commission’s determination as to whether and/or how the recommendation is to be implemented.
10. Peoples Gas will cooperate fully with the Commission’s Staff and consultants as they work to verify that Peoples Gas has implemented the recommendations in the final report on the Peoples Gas’ AMRP investigation

to the extent it is determined they should be implemented pursuant to Condition #9, above. Cooperation means to provide requested personnel who are reasonably involved in, connected to, and/or relevant to the AMRP and/or the Liberty audit for interviews in a timely manner in which the personnel interviewed shall provide, to the best of their ability, accurate and complete non-privileged information in response to questions asked, to answer written questions in a reasonable time with accurate and complete non-privileged information, and to make all non-privileged information, equipment, work sites, work forces and facilities available for inspection upon reasonable request.

11. Peoples Gas will provide written reports to the Commission Staff on or before January 1 and July 1 of each year, beginning in the year 2018 and ending only after the completion of the AMRP or any successor program that replaces the AMRP, about any change in implementation of the recommendations in the final report of the investigation of Peoples Gas' AMRP to the extent it is determined they should be implemented pursuant to Condition #9, above. An officer of Peoples Gas shall provide written verification of the accuracy and completeness of each report.

(ALJPO, Appendix A, Conditions 9, 10 and 11.)

21. Given the existence and imposition of conditions No. 9, 10 and 11 on JAs, there is no need to extend the schedule in this matter or to require additional testimony from the JAs regarding transition plans related to the Peoples Gas AMRP's as GCI requests.

22. Staff has no objection to the Commission taking administrative notice of the Liberty Phase One Final Report, but only for the same limited purpose that the Liberty Interim Audit Report was admitted into evidence. However, by not objecting to such administrative notice of the Liberty Phase One Final Report, Staff does not concede that the substantive issues in the report are properly addressed or resolved in this proceeding.

WHEREFORE, for all the reasons set forth above, Staff respectfully requests that the Commission deny GCI's May 28<sup>th</sup> Emergency Motion.

Respectfully submitted,

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Staff Counsel  
Illinois Commerce Commission

JOHN C. FEELEY  
MATTHEW L. HARVEY  
Office of General Counsel  
Illinois Commerce Commission  
160 North LaSalle St., Suite C-800  
Chicago, IL 60601-3104  
Phone: (312) 793-2877  
Fax: (312) 793-1556  
jfeeley@icc.illinois.gov  
mharvey@icc.illinois.gov

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Counsel for the Staff of the  
Illinois Commerce Commission